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Training and technical assistance

Note by the Secretariat

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* This Note is submitted three weeks after the required ten-week deadline prior to the start of the meeting because the secretariat of the Commission was fully occupied with the preparation of other parliamentary documents.

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I. Introduction

1. Pursuant to a decision taken at the twentieth session of the United Nations Commission on International Trade Law (UNCITRAL),[1] held in 1987, training and assistance activities count among the high priorities of UNCITRAL. The training and technical assistance programme carried out by the Secretariat under the mandate given by the Commission, in particular in developing countries and in countries with economies in transition, encompasses two main lines of activity: (a) information activities aimed at promoting understanding of international commercial law conventions, model laws and other legal texts; and (b) assistance to Member States with commercial law reform and adoption of UNCITRAL texts.

2. The present note lists the activities of the Secretariat subsequent to the issuance of the previous note submitted to the Commission at its thirty-fourth session, in 2001 (A/CN.9/494 of 18 April 2001), and indicates possible future training and technical assistance activities in the light of the requests for such services from the Secretariat.

II. Importance of texts of the United Nations Commission on International Trade Law

3. Increasing importance is being attributed by Governments, international organizations, including multilateral and bilateral aid agencies, and the private sector to the improvement of the legal framework for international trade and investment. UNCITRAL has an important function to play in that process because it has produced and promotes the use of legal instruments in a number of key areas of commercial law that represent internationally agreed standards and solutions acceptable to different legal systems. Those instruments include:

(a) In the area of sales, the United Nations Convention on Contracts for the International Sale of Goods[2] and the United Nations Convention on the Limitation Period in the International Sale of Goods;[3]

(b) In the area of dispute resolution, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards[4] (a United Nations convention adopted prior to the establishment of the Commission, but actively promoted by it), the UNCITRAL Arbitration Rules,[5] the UNCITRAL Conciliation Rules,[6] the UNCITRAL Model Law on International Commercial Arbitration[7] and the UNCITRAL Notes on Organizing Arbitral Proceedings;[8]

(c) In the area of government contracting, the UNCITRAL Model Law on Procurement of Goods, Construction and Services[9] and the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects;[10]

(d) In the area of banking, payments and insolvency, the United Nations Convention on the Assignment of Receivables in International Trade (General Assembly resolution 56/81, annex), the United Nations Convention on Independent Guarantees and Standby Letters of Credit (General Assembly resolution 50/48, annex), the UNCITRAL Model Law on International Credit Transfers,[11] the United Nations Convention on International Bills of Exchange and International Promissory Notes (resolution 43/165, annex) and the UNCITRAL Model Law on Cross-Border Insolvency;[12]

(e) In the area of transport, the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules),[13] and the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade;[14]

(f) In the area of electronic commerce and data interchange, the UNCITRAL Model Law on Electronic Commerce[15] and the UNCITRAL Model Law on Electronic Signatures.[16]

III. Technical assistance in the preparation and implementation of legislation

4. Technical assistance is provided to States preparing legislation based on UNCITRAL texts. Such assistance is provided in various forms, including review of preparatory drafts of legislation from the viewpoint of UNCITRAL texts, technical consultancy services and assistance in the preparation of legislation based on UNCITRAL texts, preparation of regulations implementing such legislation and comments on reports of law reform commissions, as well as briefings for legislators, judges, arbitrators, procurement

officials and other users of UNCITRAL texts embodied in national legislation. Another form of technical assistance provided by the Secretariat consists of advising on the establishment of institutional arrangements for international commercial arbitration, including training seminars for arbitrators, judges and practitioners in the area. Training and technical assistance promote awareness and wider adoption of the legal texts produced by the Commission and are particularly useful for developing countries lacking expertise in the areas of trade and commercial law covered by the work of UNCITRAL. The training and technical assistance activities of the Secretariat could thus play an important role in the economic integration efforts being undertaken by many countries.

5. In its resolution 56/79 of 12 December 2001, the General Assembly reaffirmed the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law, such as assistance in the preparation of national legislation based on legal texts of the Commission; expressed the desirability for increased efforts by the Commission, in sponsoring seminars and symposia, to provide such training and technical assistance; and appealed to the United Nations Development Programme and other bodies responsible for development assistance, such as the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development, as well as to Governments in their bilateral aid programmes, to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission. In the same resolution, the General Assembly requested the Secretary-General to adjust the terms of reference of the Trust Fund for UNCITRAL Symposia so as to make it possible for the resources in the Trust Fund to be used also for the financing of training and technical assistance activities undertaken by the Secretariat.

6. The secretariat of the Commission has taken steps to increase cooperation and coordination with development assistance agencies, with a view to ensuring that the legal texts prepared by the Commission and recommended by the General Assembly for consideration are in fact so considered and used. From the standpoint of recipient States, UNCITRAL technical assistance is beneficial because of the Secretariat's accumulated experience in the preparation of UNCITRAL texts.

7. States that are in the process of revising their trade legislation may wish to request the UNCITRAL secretariat to provide technical assistance and advice.

IV. Seminars and briefing missions

8. The information activities of UNCITRAL are typically carried out through seminars and briefing missions for government officials from interested ministries (such as trade, foreign affairs, justice and transport), judges, arbitrators, practising lawyers, the commercial and trading community, scholars and other interested individuals. Seminars and briefing missions are designed to explain the salient features and utility of international trade law instruments of UNCITRAL. Information is also provided on certain important legal texts of other organizations, for example, Uniform Customs and Practice for Documentary Credits and Incoterms of the International Chamber of Commerce.

9. In its resolution 56/79, the General Assembly expressed the desirability for increased efforts by the Commission, in sponsoring seminars and symposia, to provide training and technical assistance.

10. Lectures at UNCITRAL seminars are generally conducted by one or two members of the UNCITRAL secretariat, experts from the host countries and, occasionally, external consultants. After the seminars, the secretariat maintains contact with seminar participants in order to provide the host countries with the maximum possible support during the process leading up to the adoption and use of UNCITRAL texts.

11. Since the previous session, the secretariat of the Commission has organized seminars in a number of States, which have typically included briefing missions. The following seminars were financed with resources from the Trust Fund for UNCITRAL symposia:

(a) Vilnius (11-13 June 2001) seminar held in cooperation with the Vilnius International Commercial Arbitration Centre (approx. 40 participants);

(b) Ouagadougou (18-22 June 2001), seminar held in cooperation with the Ministry of Justice and Promotion of Humanitarian Affairs (approx. 40 participants);

(c) Santo Domingo (20-21 June 2001), seminar held in cooperation with the Ministry of Foreign Affairs (approx. 100 participants);

(d) Nairobi (10-13 September 2001), seminar held in cooperation with the Ministry of Foreign Affairs (approx. 40 participants);

(e) Minsk (26-28 September 2001), seminar held in cooperation with the International Arbitration Court of the Chamber of Commerce (approx. 50 participants);

(f) Kiev (2-4 October 2001), symposium held in cooperation with the International Arbitration Court of the Chamber of Commerce (approx. 60 participants);

(g) Dubrovnik, Croatia (1-5 October 2001, symposium held in cooperation with the Inter-University Centre in Dubrovnik (approx. 50 participants);

(h) Lima (15-16 October 2001, symposium held in cooperation with the Ministry of Foreign Affairs (approx. 200 participants);

(i) Arequipa, Peru (18-19 October 2001, symposium held in cooperation with the Ministry of Foreign Affairs (approx. 200 participants);

(j) Bogota (25-26 October 2001, symposium held in cooperation with the Ministry of Foreign Affairs (approx. 160 participants);

(k) Hanoi (6-12 December 2001, symposium held in cooperation with the Ministries of Trade and Justice (approx. 35 participants);

(l) Phnom Penh (3-5 April 2002, symposium held in cooperation with the Ministry of Commerce (approx. 40 participants);

(m) Jakarta (8-10 April 2002, symposium held in cooperation with the Central Bank of Indonesia (approx. 70 participants).

V. Participation in other activities

12. Members of the UNCITRAL secretariat have participated as speakers in various seminars, conferences and courses where UNCITRAL texts were presented for examination and possible adoption or use. The participation of members of the secretariat in the seminars, conferences and courses listed below was financed by the institution organizing the events or by another organization:

(a) University of Paris X Nanterre Course on the International Sale of Goods (Paris, 30 April-7 May 2001);

(b) Pallas Consortium, Centre for Postgraduate Legal Education International Conference on Cross-Border Insolvency (Nijmegen, The Netherlands, 4 May 2001);

(c) University of Lecce Course on the International Sale of Goods (Lecce, Italy, 14-16 May 2001);

(d) University of Bologna and Loyola and Brooklyn Law Schools Course on the International Sale of Goods (Bologna, Italy, 28 May–2 June 2001);

(e) University of Verona Conference on Alternative Dispute Resolution Methods, International Contracts and Related Questions (Verona, Italy, 15-16 June 2001);

(f) Sixth Follow-up BOT Conference sponsored by the Cairo Regional Centre for International Commercial Arbitration (Sharm El Sheikh, Egypt, 29-30 September 2001);

(g) University of Verona Seminar on International Trade Law (Verona, Italy, 8-12 October 2001);

(h) Joint Conference of the Permanent Court of Arbitration and the Arab Union of International Arbitration (The Hague, 12 October 2001);

(i) National Conference of Bankruptcy Judges and the American Bar Association Annual Conference (Orlando, Florida, United States of America, 17-19 October 2001);

(j) Commercial Finance Association 57th Annual Convention of the Asset-Based Financial Services Industry (San Francisco, California, United States of America, 24-26 October 2001);

(k) International Bar Association Cancun 2001 Conference (Cancun, Mexico, 28 October-1 November 2001);

(l) Universities of Verona and Catania Master's Degree in Advanced International Legal Studies Course (Verona, Italy, 5-7 November 2001);

(m) American Bar Association Corporate Counsel Committee of the Board of Directors Meeting (New York, 9 November 2001);

(n) Conference on Legal Framework for Electronic Business sponsored by the University of Montreal and the Government of Quebec (Montreal, 12 November 2001);

(o) Colloquium on On-line Dispute Resolution sponsored by the University of Geneva (Geneva, 16 November 2001);

(p) University of Paris X Nanterre Course on the International Sale of Goods (Paris, 7-14 December 2001;

(q) International Conference on the Legal Aspects of Electronic Commerce and the Recent Trends in Settling Commercial Dispute sponsored by the Cairo Regional Centre for International Commercial Arbitration (Cairo, 12-13 January 2002);

(r) Second Arab Judicial Colloquium sponsored by the Cairo Regional Centre for International Commercial Arbitration (Cairo, 14 January 2002);

(s) WIPO International Conference on Intellectual Property and Electronic Business (Tehran, 15-16 January 2002);

(t) University of Palermo Master Degree Programme on International Contracts (Palermo, Italy, 17-18 January 2002);

(u) University of Padua Master Degree Programme on International Contracts (Padua, Italy, 25 January 2002);

(v) University of Padua Master Degree Programme on International Contracts (Padua, Italy, 1-2 February 2002);

(w) E-Business Conference sponsored by the Electronic Business Development Activity (EBDA) of the Amman Chamber of Industry (Amman, 19-20 February 2002);

(x) University of Bologna Master Degree Programme on Comparative Law (Bologna, Italy, 25-27 February 2002);

(y) International Trade Law Postgraduate Course, sponsored by the International Training Centre of the International Labour Organization (ILO) and the University Institute of European Studies (Turin, Italy, 12 April 2002);

(z) Seminar on New ICC Rules on Electronic Presentation of Documents, sponsored by the International Chamber of Commerce (Vienna, 22 April 2002).

13. The participation of members of the Secretariat in the seminars, conferences and courses listed below was financed with resources from the United Nations regular travel budget:

(a) European Bank for Reconstruction and Development Business Forum Legal Roundtable Seminar on Building the Legal Environment for Public-Private Partnerships (London, 22 April 2001);

(b) The Economic Commission for Europe (ECE) Forum on Trading into the Future, E-services for Trade, Investment and Enterprise (Geneva, 11-12 June 2001);

(c) Sixth Biennial Dispute Resolution Conference sponsored by the International Federation of Commercial Arbitration Institutions (Prague, 22 June 2001);

(d) UNCITRAL/INSOL International Judicial Colloquium (London, 16-17 July 2001);

(e) Sixth International Federation of Insolvency Professionals (INSOL) World Congress (London, 16-20 July 2001);

(f) UNCTAD Expert Meeting on Electronic Commerce and International Transport Services (Geneva, 26-28 September 2001);

(g) Ninth International Zagreb Arbitration Conference sponsored by the Permanent Arbitration Court, Croatian Chamber of Commerce (Zagreb, 6-7 December 2001);

(h) UN/ECE Workshop on E-Regulatory Framework Development (Geneva, 13 February 2002);

(i) UN/ECE Working Party on Industry and Enterprise Development (Geneva, 14-15 February 2002);

(j) Research Development Symposium – International Commercial Arbitration sponsored by the Global Center for Dispute Resolution Research (Barcelona, Spain, 21-24 February 2002);

(k) Conference on Shaping Market Economy Legislation in the Context of the EU Stabilisation and Association Process sponsored by the United Nations Mission in Kosovo (UNMIK) (European Union Pillar) (Pristina, 27-28 February 2002);

(l) 2002 Annual Survey of Letter of Credit Law and Practice sponsored by the Institute of International Banking Law and Practice (Amsterdam, 25-26 March 2002).

VI. Internship programme

14. The internship programme is designed to give young lawyers the opportunity to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. During the past year, the Secretariat has hosted 15 interns from Belgium, Brazil, China, Egypt, Germany, Hong Kong Special Administrative Region of China, Italy, Nigeria, Peru and the United States of America. Interns are assigned tasks such as basic or advanced research, collection and systematization of information and materials or assistance in preparing background papers. The experience of UNCITRAL with the internship programme has been positive. However, as no funds are available to the Secretariat to assist interns to cover their travel or other expenses, interns have to be sponsored by an organization, university or government agency, or to meet their expenses from their own means. As a result, there is limited participation of interns from developing countries. In that connection, the Commission may wish to invite Member States, universities and other organizations, in addition to those which already do so, to consider sponsoring the participation of young lawyers, in particular from developing countries, in the United Nations internship programme with UNCITRAL.

15. The Secretariat also occasionally accommodates requests by scholars and legal practitioners who wish to conduct research in the UNCITRAL law library for a limited period of time.

VII. Future activities

16. For the remainder of 2002, seminars and legal assistance briefing missions are being planned in Africa, Asia, countries with economies in transition in Eastern Europe and Latin America. Since the cost of training and technical assistance activities is not covered by the regular budget, the ability of the Secretariat to implement those plans is contingent upon the receipt of sufficient funds in the form of contributions to the Trust Fund for UNCITRAL symposia.

17. As it has done in recent years, the Secretariat has agreed to co-sponsor the next three-month international trade law postgraduate course to be organized by the University Institute of European Studies and the International Training Centre of ILO in Turin. Typically, approximately half the participants are from Italy, with many of the remainder coming from developing countries. The contribution from the UNCITRAL secretariat to the next course will focus on issues of harmonization of laws on international trade law from the perspective of UNCITRAL, including past and current work.

18. Also, as it has done for the past seven years, the Secretariat co-sponsored the ninth Willem C. Vis International Commercial Arbitration Moot in Vienna from 22 to 28 March 2002. The Moot is principally organized by the Institute of International Commercial Law at Pace University School of Law. With its broad international participation, involving 108 teams from 36 countries in 2002, it is seen as an excellent way to disseminate information about uniform law texts and teaching international trade law. This year, the Secretariat offered a series of lectures on international sales and international trade financing issues to about 140 participants of the Moot.

VIII. Financial resources

19. The Secretariat continues its efforts to devise a more extensive training and technical assistance

programme to meet the considerably greater demand from States for training and assistance, in keeping with the call of the Commission at its twentieth session for an increased emphasis both on training and assistance and on the promotion of the legal texts prepared by the Commission. However, as no funds for UNCITRAL seminars are provided for in the regular budget, expenses for UNCITRAL training and technical assistance activities (except for those which are supported by funding agencies such as the World Bank) have to be met from voluntary contributions to the Trust Fund for UNCITRAL symposia.

20. Given the importance of extrabudgetary funding for the implementation of the training and technical assistance component of the UNCITRAL work programme, the Commission may again wish to appeal to all States, international organizations and other interested entities to consider making contributions to the Trust Fund for UNCITRAL symposia, in particular in the form of multi-year contributions, so as to facilitate planning and to enable the Secretariat to meet the increasing demands from developing countries and States with economies in transition for training and assistance. Information on how to make contributions may be obtained from the Secretariat.

21. In the period under review, contributions were received from Cyprus, France, Greece and Switzerland. The Commission may wish to express its appreciation to those States and organizations which have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

22. In that connection, the Commission may wish to recall that, in accordance with General Assembly resolution 48/32 of 9 December 1993, the Secretary-General was requested to establish a trust fund to grant travel assistance to developing countries that are members of UNCITRAL. The trust fund so established is open to voluntary financial contributions from States, intergovernmental organizations, regional economic integration organizations, national institutions and non-governmental organizations, as well as to natural and juridical persons.

23. At its thirty-fourth session, the Commission noted with appreciation that the General Assembly, in its resolution 56/79 of 12 December 2001, had appealed to Governments, the relevant United Nations organs, organizations, institutions and individuals, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to make voluntary contributions to the trust fund for granting travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General.

24. Since the establishment of the trust fund, contributions have been received from Austria, Cambodia, Cyprus, Kenya, Mexico and Singapore.

25. It is recalled that in its resolution 51/161 of 16 December 1996, the General Assembly decided to include the trust funds for UNCITRAL symposia and travel assistance in the list of funds and programmes that are dealt with at the United Nations Pledging Conference for Development Activities.

26. In order to ensure full participation of all Member States in the sessions of UNCITRAL and its Working Groups, the Commission may wish to reiterate its appeal to the relevant bodies in the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund established to provide travel assistance to developing countries that are members of the Commission.

Notes

[1] *Official Records of the General Assembly, Forty-second Session, Supplement No. 17* (A/42/17), para. 335.

[2] *Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March-11 April 1980* (United Nations publication, Sales No. E.82.V.5), part I.

[3] *Official Records of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, New York, 20 May-14 June 1974* (United Nations publication, Sales No. E.74.V.8), part I.

[4] United Nations, *Treaty Series*, vol. 330, No. 4739.

[5] *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17* (A/31/17), para. 57.

[6] Ibid., *Thirty-fifth Session, Supplement No. 17* (A/35/17), para. 106.

[7] Ibid., *Fortieth Session, Supplement No. 17* (A/40/17), annex I.

[8] Ibid., *Fifty-first Session, Supplement No. 17* (A/51/17), chap. II.

[9] Ibid., *Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

[10] United Nations publication, Sales No. E.01.V.4.

[11] *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 17* (A/47/17), annex I.

[12] Ibid., *Fifty-second Session, Supplement No. 17* (A/52/17), annex I.

[13] *Official Records of the United Nations Conference on the Carriage of Goods by Sea, Hamburg, 6-31 March 1978* (United Nations publication, Sales No. E.80.VIII.1), document A/CONF.89/13, annex I.

[14] A/CONF.152/13, annex.

[15] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 17* (A/51/17), annex I.

[16] Ibid., *Fifty-sixth Session, Supplement No. 17* (A/56/17), annex II.